

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 802 of 2000

to

FIRST APPEALNo 816 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI

and

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

JINABHAI PARVATSINH

Appearance:

Mr V M Pancholi, AGP for Petitioners

MR VIJAY N RAVAL for Respondent No. 1, 3

CORAM : MR.JUSTICE M.H.KADRI

and

MR.JUSTICE D.P.BUCH

Date of decision: 17/07/2000

ORAL COMMON JUDGMENT (per Kadri, J.)

The appellants have filed this group of First Appeals under Section 54 of the Land Acquisition Act, 1894 (for short 'the Act') read with Section 96 of the Code of Civil Procedure, 1908 challenging the common judgment and award dated April 20, 1999 passed by the learned 4th Joint Civil Judge, Godhra in LAR Nos. 753 to 767 of 1990 by which common judgment and award, the respondent-claimants were awarded additional amount of compensation at the rate of Rs.6.30 paise per sq. metre for the acquired lands situated in village Ambala, Taluka Halol, District Panchmahals.

2. The agricultural lands belonging to the respondents were placed under acquisition for the public purpose of laying down canal under the Narmada Project by issuing of notification under section 4(1) of the Act published on 28.8.1986. The Land Acquisition Officer, after following usual procedure under the Act, made his award on 21.9.1989 and offered compensation for the acquired lands at the rate of Rs.0.70 paise per sq. metre.

3. The respondent-claimants filed application under Section 18 of the Act requiring the Land Acquisition Officer to refer their applications to the District Court for determination of the market value of the acquired lands. Accordingly the said applications were referred to the District Court which came to be numbered as LAR cases No.753/90 to 767/90.

4. Before the Reference Court, the claimants examined Ranjitsinh Ishwarsinh Rathod at Exh.19 who was claimant of LAR No.755/90. The witness produced certified copy of revenue records of 7/12 extracts at Exhs. 23 to 41. The witness during his deposition produced previous awards of the same village Ambala rendered in LAR No.721/90 wherein the notification under Section 4(1) of the Act with regard to the acquired lands of LAR No.721/90 was issued on August 11, 1986 and the Reference Court had determined the market value of the acquired lands of the same village at the rate of Rs.7.70 paise per sq. metre. Award Exh.20 was challenged in the High Court in FA No.1725/94 and allied matters and the High Court (Coram: B N Kirpal, C.J. and A N Divecha, J) (as Their Lordships were then) by order dated February 6, 1995 had partly allowed the appeals and retained the market rate of the acquired lands of village Ambala at the rate of Rs. 7/- as on August 11, 1986. The judgment and order of the Division Bench was challenged in the Supreme Court by way of SLP and the Supreme Court by

order dated September 27, 1996 had summarily dismissed the SLP. This indicate that the market value of the acquired lands of village Ambala as on August 11, 1986 had become final at the rate of Rs.7/- per sq. metre as on August 11, 1986. The Reference Court by placing reliance on previous award Exh. 20 and the decision of the High Court as well as the Supreme Court, had determined the market value of the present acquired lands of the same village Ambala at the rate of Rs.7/- per sq. metre as on 28.8.1986.

5. Learned AGP Mr V M Pancholi learned Advocate for the appellants has taken us to the entire Records and Proceedings of the appeals. The learned AGP has submitted that the Reference Court was erred in placing reliance on previous award of the same village which is not relevant and comparable for determination of the market value of the acquired lands. In our opinion, this submission of the learned AGP deserves no merit. The Reference Court was justified in placing reliance on the determination of the market value of the acquired lands of the same village Ambala at the rate of Rs.7/- per sq. metre as on August 11, 1986 which had become final upto the stage of Supreme Court. The present acquired lands were in all respects relevant and comparable with the lands of previous award Exh.20. We are of the opinion that the compensation awarded to the claimants for the acquired lands by the Reference Court is just and reasonable and deserves to be confirmed. The statutory benefits extended by the Reference Court in favor of the claimants under Section 23(1-A) and 23(2) are eminently just and proper and do not call for interference by this Court.

6. As a result of the foregoing discussion, these appeals are dismissed. The determination of the market value of the present acquired lands situate in village Ambala as on August 28, 1986 is determined at the rate of Rs.7/- per sq. metre. The claimants shall be entitled to statutory benefits under Section 23(1-A) and 23(2) and interest under Section 28 of the Act. However, it is clarified that the claimants shall not be entitled to solatium on the additional amount payable under Section 23(1-A) and no interest shall be paid on the amount of solatium as per the decision of the Supreme Court in the case of Prem Nath Kapur v. National Fertilizers Corporation of India (1999(2) SCC 71). In the facts and circumstances there shall be no order as to costs.

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msp